

12/14/06

# 64

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE REZONING AND CHANGING THE ZONING MAP FOR THE PROPERTY LOCATED AT 1801 NUECES STREET FROM GENERAL OFFICE (GO) DISTRICT TO DOWNTOWN MIXED USE-CONDITIONAL OVERLAY (DMU-CO) COMBINING DISTRICT.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF AUSTIN:

PART 1. The zoning map established by Section 25-2-191 of the City Code is amended to change the base district from general office (GO) district to downtown mixed use-conditional overlay (DMU-CO) combining district on the property described in Zoning Case No. C14-06-0158, on file at the Neighborhood Planning and Zoning Department, as follows:

Lot 1, Outlot 27, Original City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 1, Page 122A, of the Plat Records of Travis County, Texas (the "Property"),

locally known as 1801 Nueces Street, in the City of Austin, Travis County, Texas, and generally identified in the map attached as Exhibit "A".

PART 2. The Property within the boundaries of the conditional overlay combining district established by this ordinance is subject to the following conditions:

- 1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds 2,000 trips per day.
- 2. Development of the Property shall consist of a minimum of one residential unit.
- 3. Development of the Property may not exceed 6.66 residential units per acre.
- 4. The following uses are prohibited uses of the Property:
 

Cocktail lounge	Laundry services
Liquor sales	Pawn shop services

1 5. Drive-in service is prohibited as an accessory use to a commercial use.

2  
3 Except as specifically restricted under this ordinance, the Property may be developed and  
4 used in accordance with the regulations established for the downtown mixed use (DMU)  
5 base district and other applicable requirements of the City Code.  
6

7  
8 **PART 3.** This ordinance takes effect on \_\_\_\_\_, 2006.  
9

10 **PASSED AND APPROVED**

11  
12  
13 §  
14 §  
15 \_\_\_\_\_, 2006 § \_\_\_\_\_  
16 Will Wynn  
17 Mayor  
18

19  
20 **APPROVED:** \_\_\_\_\_ **ATTEST:** \_\_\_\_\_  
21 David Allan Smith Shirley A. Gentry  
22 City Attorney City Clerk



12/14/06  
# 64

Zoning Case No. C14-06-0158

RESTRICTIVE COVENANT

OWNER                    Oasis in West Campus, Inc., a Texas corporation

ADDRESS:                2305 RR 620, Suite 135-345, Lakeway, Texas 78734

CONSIDERATION.      Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY:              Lot 1, Outlot 27, Original City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 1, Page 122A, of the Plat Records of Travis County, Texas.

WHEREAS, the Owner of the Property and the City of Austin have agreed that the Property should be impressed with certain covenants and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant. These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its successors and assigns.

1. For a new building or structure constructed to a height of 60 feet or less from street level, a minimum 10 percent of its gross building coverage shall be for a residential use.
2. For a new building or structure constructed to a height of 60 feet or more from street level, a minimum 15 percent of its gross building coverage shall be for a residential use.
3. If development of the Property exceeds 60 feet in height then the Owner shall design and construct streetscape improvements along Nueces Street in compliance with the City of Austin Great Streets design criteria as the criteria existed on December 14, 2006. Design, permitting and construction of streetscape improvements will be at Owner's expense. The Owner shall coordinate the design of the streetscape improvements with the Urban Design Section of the Neighborhood Planning and Zoning Department. The Urban Design Section shall inspect and approve the streetscape improvements prior to issuance of a certificate of occupancy.
4. Retail space is limited to 1200 square feet of net building coverage on the Property.
5. A tattoo parlor or shop with associated tattoo paraphernalia is prohibited on the Property.
6. If any person or entity shall violate or attempt to violate this agreement and covenant, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such agreement or covenant, to prevent the person or entity from such actions, and to collect damages for such actions.

- 7 If any part of this agreement or covenant is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this agreement, and such remaining portion of this agreement shall remain in full effect
- 8. If at any time the City of Austin fails to enforce this agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppel of the right to enforce it.
- 9 This agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the \_\_\_\_\_ day of \_\_\_\_\_, 2006

**OWNER:**

**Oasis in West Campus, Inc.,  
a Texas corporation**

By: \_\_\_\_\_  
Darryl L. Mobley,  
President

**THE STATE OF TEXAS           §**  
**COUNTY OF TRAVIS           §**

This instrument was acknowledged before me on this the \_\_\_\_ day of \_\_\_\_\_, 2006, by Darryl L. Mobley, President of Oasis in West Campus, Inc., a Texas corporation, on behalf of the corporation.

\_\_\_\_\_  
Notary Public, State of Texas

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Assistant City Attorney  
City of Austin



After Recording, Please Return to:  
City of Austin  
Department of Law  
P. O. Box 1088  
Austin, Texas 78767  
Attention: Diana Minter, Paralegal